G R S App F IX 4]

1946 - 47

File No 117-26

Previous References

(41)

Serial Nos 3, 4

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos

-12-

Part B for Marshall

SUBJECT

Resignation tendered by Mr Maughe
Rao Non official president
Nagpur Town Municipality

7774/2

Resignation application tendered by the non official president – Sagar Town Municipality

–

From

The Dy commr – Shimoga Dt

No MSe 2526/46-47 Dt/ 19 3 47

Requests orders whether he would call in order to consider Mr Mangesha Rao's application for withdrawal of his resignation to the office of the presidentship of the Sagar Town Municipal council received within 10 days of the date of resignation

1) Mr Mangesha Rao sent notice of his resignation to the office of president-ship of Sagar Town Municipal council on 9 3 47 and on a reconsideration, he has applied for its withdrawal on 16 3 47, within 10 days of the notice of resignation

2) Sec 13 of the Town Municipalities Act 1933 states " The president may resign his membership or his office as president by giving notice in writing to that effect to the DC and such resignation shall take effect on the expiry of 10 days from

1174/L

3930 Jan 5 1944

the date of notice

3) There does not appear to contain anything in this Section which makes it incumbent upon the Govt to accept the Resignation tendered by the president except in so far as to lay down a time limit for the Resignation to become effective

as 4/3

4) As this is a Voluntary Resignation, and has been withdrawn before it becoming operative there appears to be no objection to Mr Mangosha Rao's Continuance in office till the expiry of his term at the end of June 1947

5) The Law Secretariat may also, perhaps, be consulted for opinion

Govt
Re 21/3/44

6) The opinion of the Law Secretary may be sought in the matter

Law Secy 21/3/44

7) For favour of advice

Law Secy 21/3/44

Govt 6406 24 MAR 1944

8) Section 13 of the Town Municipalities Act states that the resignation shall take effect on the

Resignation of Regular Forces 3930/3/14

7774

expiry of ten days from the date of notice. It does not exclude the possibility of withdrawal within the statutory period of ten days ~~where~~ as this is not expressly prohibited

Law Secy) 24/3

24 MAR 47 GOVT HOUSE WELLINGTON

Rw Secy) 25/3
WC)

OFFICE OF THE MINISTER FOR DEFENCE
No. 8065
25.3.47

9) ✓ The D C may be asked for 25/3 to permit the President to withdraw this resignation if approved a wire will be sent

Chmn for Rec'r Cons) 25/3

OFFICE OF THE MINISTER
No. 8137
Date 26.3.47

10) Please bring up with a copy of the relevant Act & Rules 25/3

11) In view of the legal opinion obtained 26/3 above, a reply may be given that the withdrawal application may be accepted

12) (Please ask the Law Section to verify, and advise, whether there are no decisions by the Appeal Court where resignation is tendered, the tenderer's acceptance of the tendered resignation is withdrawn before such acceptance may come to 26/3

26/3

Off putup by the Supdt 7774 & 4007 for
- issue & return

Sec
26/3/47

to see DC Shimoga dist
L 73103 dated 26-3-47
regarding the acceptance of
the withdrawal of the
resignation of vice-chairman

13 for favour of necessary action
with reference to para 12 supra

Asst Secretary
Law section
26/3/47

for 27/3

14) The term "electoral right" was interpreted to mean (vide Indian Election Petitions, Vol IV, page 45 by Jagat Narain) the right of a person to stand or not to stand as or to withdraw from being a candidate or to vote or to refrain from voting at an election If a person has a right to stand as a candidate he has also a right to withdraw from being a candidate unless that right has been taken away by the rules

15 Withdrawal of an election petition is, however, different, it cannot be withdrawn without the permission of the Commissioner or court (vide Law of Parliamentary Election and Election Petitions by Jagat Narain, page 471)

16 The Rules relating to election of members, presidents and vice-presidents of the City, Town and Minor Municipalities provide that a candidate who has withdrawn his candidature shall not be allowed to cancel such withdrawal -(vide Rules 14(2) page 2 and 64 page 48 of the Rules relating Election of Members, presidents and vice-presidents of City, Town and Minor Municipalities) These relate to election of members, presidents and vice-presidents

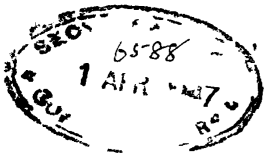
7774 L 8344 L 400 7/6

and not to the resignation of a Municipal ~~Council~~ President under Sec 13 of the Town Municipalities Act In the absence of any such prohibition, it will not be proper to apply this rule

17) When the language is plain, precise, clear, unequivocal, and unambiguous, words should be understood in their technical sense, if they have acquired one, else in their ordinary and grammatical sense Thus interpreted, the mere tender of resignation does not appear automatically to terminate the office (vide pages 170-171 Law and Practice of Elections and Election Petitions by Nanak Chand and also Halsbury, Vol 14, page 414)

18) In the present case there is no express prohibition to the withdrawal of his letter of resignation Again, Sec 13 specifically provides that the resignation shall take effect after 10 days It may therefore be presumed that the power to cancel also is implied, if it is within the statutory period

There appear to be no decided cases on the point



Law Secy) 1/4

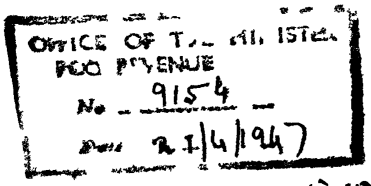
19) 8/4 10/4

Asst Secy L S Q etc)

10/4/47.

20) Seen with Reference to para 12 Supra

Rec 16/4/47 21) For personal and report to 12/4/47



For perusal Rev Secy) 18/4/47

Minister for Rev & Comm) 21/4/47

B-3-5-47. 22/4/47 22/4 22/4/47

Mc 117-46-B

20 7774

S[illegible] M A ,
Town Commissioner

Office of the Deputy Commissioner,
Salem, dated 19th March 1947

L S G BRANCH

D C No M3 C 252C/4C-47

Dear Sir,

Subject - Resignation application tendered by the Non-official President- Salem Town Municipality

I write to state that Mr T S Ponnambe Rao, B A , Non-Official President, Salem Town Municipal Council - forwarded a letter No C 128/46-47 dated 9th March 1947, this Office stating that in the circumstances explained in his letter referred to above, he was unable to continue as President of the Salem Town Municipal Council and that his resignation to the Office of the President, might be accepted

In Summary

Subsequently Mr Ponnambe Rao, in his letter dated 16-3-47 has stated that on careful consideration of the present altered circumstances, he would not be - justified in tendering his resignation to the Office of the President and that the term of the present Council would expire after 3½ months, he would like to withdraw his resignation application dated 9-3-47 and continue to hold the Office of the President till the expiry of the term of the Municipal Council The existing term of the - Municipal Council expires on 30-6-47 and the Salem - Municipal Council [redacted] to be reconstituted with effect from 1st July 1947

I write to state in this connection that Section 13 of the Town Municipalities Act states as follows - "The Municipal President may resign his Membership of his Office as President by giving notice in writing to

to that effect to the Deputy Commissioner and such resignation shall take effect on the expiry of Ten days from the date of the notice"

The withdrawal application dated 16-3-47 of Mr Manoosha Rao, has been received in this Office on 18-3-47 i e , within a period of Ten days

The wordings of the latter portion of Sec 13 of the Town Municipalities Act, cited above does not clearly specify whether the Deputy Commissioner is competent to allow such withdrawal applications or whether he has no other option but to simply accept the resignation application

In view of this doubt, I request the favour of Your instructions from Government as to whether the subsequent application received from Mr Manoosha Rao, withdrawing his resignation for the Office of the Municipal President may be considered by me, and the incumbent allowed to continue in the Office of the Non-Official President as before

I request the favour of early orders of Government in the matter

Yours sincerely,

19/3/47

To
H N Pallegar, Esq , M A , IL B ,
Secretary to Government,
Revenue Department,
BANGALORE

Copy of letter No C 128/46-47 dated 9th April 1947 from the President, Town Municipal Council, Sagar to the Deputy Commissioner, Shimoga Dist

Subject - Resignation of the President, Town Municipal Council, Sagar

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In continuation of this Office letter No 114 dated 12-2-47 and your reply letter No 3 P L 310/46-47 dated 6th March 1947 thereon, I have the honour to state that there is no change in the attitude of the council, especially the Vice-President and Mr H Shivalingappa (Councillor) on the other hand, it is becoming worse day to day, and hour to hour, with the result, that I am not in a position to get through my legitimate work as President, with the Co-operation of the Vice-President, or the Council Even in regard to the special meeting called for in connection with the laying the foundation stone of the Municipal High School buildings by the Dewan, the attitude of the two said gentlemen was far from satisfactory and the way in which they spoke by objecting in the subject of the grant of the site to Mr Pappanna, Municipal Councillor, as highly unparliamentary, and almost insulting

It is really most regretable to a gentleman having some self respect to continue as President of this Municipal Council

Under these circumstances I really regret to tender this, my resignation which may be kindly accepted

"Sd"

Copy of letter No 128/46-47 dated 16-3-47 from the President, Town Municipal Council, Sagar, to the Deputy Commissioner, Shimoga District

Reference - My letter No C 128/46-47 of resignation dated 9-3-47

I have the honour to state that on a careful consideration of the present altered circumstances, I feel I will not be justified in tendering my resignation to the Presidentship of the Town Municipal Council, Sagar, since in addition I have, officially only 3 months for the completion of the present term of Office

Hence, I want to withdraw my resignation (if not, accepted already), tendered to the Presidentship and I request, that effect may not kindly be given to my resignation

"Sd"

Yours faithfully
President

PSL

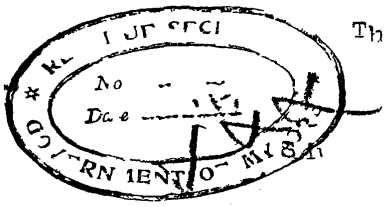
3130 ✓ 3944 ✓

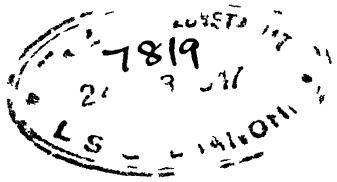
No M3 C 2526/46-47

Office of the Deputy Commissioner,
Simla, dated 21st March 1947

To

The Secretary to Government
Revenue Department,
Bombay





Subject - Registration tendered by Mr Ibrahim Bap B A on-Official Pleader, Sangli Municipal - Council

In confirmation of the recently noted telegram sent to you to-day on the subject noted above, I have the honour to request you kindly to communicate to me the instructions of - Government on the points mentioned in this Office D C letter of even No dated 19th instant

*REVISED BA CALCRE

"Reference this Office letter of nineteenth instant regarding Sangli Municipal Pleader registration- request early instructions-" Depesh

I have the honour to be
Sir,
Your most obedient servant

for Deputy Commissioner,
Simla

Dy

21-3-47

Ref

People in such cases may be made available immediately with your consent
The telegram need and this letter is also endorsed

Advocate, who is in Law section

4-30 P.M.

24/3

B I Cable INDIAN POSTS AND TELEGRAPHS DEPARTMENT

239

Recd at ____ H ____ M	Sent at ____ H ____ M
From ____	To 7820
By ____	By AR 54

Office Stamp

DHM

AI 16/30 Shimoga 21 15/30 18

Rev-Sec Bangalore

Reference Hrs office letter
Municipal request
wanted to
early instructions
Repeat

MFP—6 Telegraph—5166—(P 41)—4 9 46—5 000 Books

Appendix F G —1]

SUBJECT

Diary No of letter replied to 7774

General and Revenue Secretriat

( )

the 194

Date of issue 26-3-47

Signed by for GSRR

List of enclosures

Copied by

Examined by

Section Wd

File No 117-46

Serial No 4

No L 13103 dated 26/3/47

To

The Deputy Commissioner Amritsar

Sir, With reference to your letter no ~~DSRC~~ M 3e 2526/46-478 ~~C 3-3-47~~ 4.3.47 stating that Mr TS Mangeshkar, Non-Official President of Rajpur Town Municipality has tendered his resignation I am directed to state that the withdrawal application may be accepted

Who has subsequently expressed a desire to withdraw his resignation & stating reasons & requesting permission to do so,

Thanks

for

for Revenue Secretary